

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20697
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On August 17, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing income tax, penalty, and interest for tax years 2000 through 2005 in the total amount of \$20,360.

The taxpayers protested the determination and, subsequently, submitted Idaho Individual income tax returns for tax years 2000, 2002, and 2003. Those returns were accepted as filed, and the NODD was cancelled for those three years. No information was submitted for tax years 2001, 2004, or 2005. The Tax Commission, having reviewed the file, hereby issues its decision regarding tax years 2001, 2004, and 2005.

Information available to the Tax Commission indicated the taxpayers were Idaho residents who met the individual income tax filing requirements. Because the Tax Commission's files did not include the taxpayers' Idaho individual income tax returns for tax years 2001, 2004, and 2005, the Bureau prepared the returns on the taxpayers' behalf and issued a NODD.

The taxpayers appealed the determination, and their file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Tax Policy Specialist that outlined their appeal rights.

Idaho Code § 63-3002 defines the intent of the Idaho legislature regarding Idaho income tax:

**63-3002. Declaration of intent.** -- It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All of the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States.

Idaho Code § 63-3030 establishes the filing requirement for Idaho income tax returns, in part:

**63-3030. Persons required to make returns of income.** -- (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.
- (2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

[Redacted] The taxpayers' letter dated October 15, 2007, protesting the NODD stated:

To Whom It May Concern:

We are filing a written petition for redetermination on the filing sent to us. We are enclosing a portion of our returns. We are under the belief that if we did not owe taxes and actually have money coming back to us, we were not obligated to file a return with Idaho. The missing returns are being done at this time and will be forwarded to your office.

The Bureau calculated the taxpayers' Idaho tax using two standard deductions and two exemptions. Withholding in the amount of \$2,512 for 2001; \$2,364 for 2004; and \$1,690 for 2005 reduced each year's tax amount. Interest and penalty were added pursuant to Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with Idaho Code.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have failed to file complete Idaho individual income tax returns for the years in question. Absent information to the contrary, the Tax Commission accepts the Bureau's calculation of Idaho income tax, penalty, and interest for tax years 2001, 2004, and 2005.

WHEREFORE, the Notice of Deficiency Determination dated August 17, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty,  
and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$2,055	\$ 514	\$755	\$ 3,324
2004	4,125	1,031	785	5,941
2005	3,609	902	470	4,981
			TOTAL DUE	<u>\$14,246</u>

Interest is calculated through March 31, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.